

HOUSE BILL 3788

By Moore

AN ACT to amend Tennessee Code Annotated, Section 67-5-1206 and Section 67-5-1105 relative to revising procedures for assessment of certain intangible personal property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-1105, is amended by deleting the words "to be filed with the county clerk for preservation,"; by designating the existing language as subsection (a); and by adding the following new subsections:

(b) The assessor shall furnish a reporting schedule in a form approved by the state board of equalization to each company subject to assessment under this part, and the schedule shall be completed and returned by the company by March 1 of the year for which the assessment is to be made. A taxpayer who fails, refuses or neglects to complete, sign and file such schedule with the assessor of property, as provided in subsection (a), shall be deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in subsection (c). In determining a forced assessment, the assessor shall consider available evidence indicative of the assessable value of property assessable to the taxpayer under this section, and having determined the assessable value thereof, the assessor shall give the taxpayer notice of such assessment by certified mail, return receipt requested, addressed to the last known address of the taxpayer, or the taxpayer's agent, at least five (5) calendar days before the local board of equalization commences its annual session.

(c) If a forced assessment is shown to exceed the assessable value of the taxpayer's property by twenty-five percent (25%) or more, the taxpayer shall have the following remedies, and none other:

(1) The taxpayer may appeal to the county board of equalization pursuant to § 67-5-1407, but must present a completed schedule as otherwise provided in this section;

(2) If the deadline to appeal to the county board of equalization has expired, the taxpayer may request the assessor to mitigate the forced assessment to the extent it is shown to exceed the assessable value of the taxpayer's assessable property by twenty-five percent (25%) or more, so long as the failure to file the schedule or failure to timely appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure provided and be subject to the deadlines provided in § 67-5-509. Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the state board of equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor;

(3) Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own property assessable pursuant to this part as of the assessment date for the year at issue; and

(4) The taxpayer may amend a schedule timely filed with the assessor in the same manner provided for tangible personal property returns.

SECTION 2. Tennessee Code Annotated, Section 67-5-1206, is amended by deleting the words "to be returned by the assessor to the county clerk for preservation," and by adding the following new subsections:

(c) The assessor shall furnish a reporting schedule in a form approved by the state board of equalization to each company subject to assessment under this part, and the schedule shall be completed and returned by the company by March 1 of the year for which the assessment is to be made. A taxpayer who fails, refuses or neglects to complete, sign and file such schedule with the assessor of property, as provided in subsection (a), shall be deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in subsection (d). In determining a forced assessment, the assessor shall consider available evidence indicative of the assessable value of property assessable to the taxpayer under this section, and having determined the assessable value thereof, the assessor shall give the taxpayer notice of such assessment by certified mail, return receipt requested, addressed to the last known address of the taxpayer, or the taxpayer's agent, at least five (5) calendar days before the local board of equalization commences its annual session.

(d) If a forced assessment is shown to exceed the assessable value of the taxpayer's property by twenty-five percent (25%) or more, the taxpayer shall have the following remedies, and none other:

(1) The taxpayer may appeal to the county board of equalization pursuant to § 67-5-1407, but must present a completed schedule as otherwise provided in this section;

(2) If the deadline to appeal to the county board of equalization has expired, the taxpayer may request the assessor to mitigate the forced assessment to the extent it is shown to exceed the assessable value of the taxpayer's assessable property by twenty-five percent (25%) or more, so long as the failure to file the schedule or failure to timely appeal to the county board of

equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure provided and be subject to the deadlines provided in § 67-5-509. Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the state board of equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor;

(3) Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own property assessable pursuant to this part as of the assessment date for the year at issue; and

(4) The taxpayer may amend a schedule timely filed with the assessor in the same manner provided for tangible personal property returns.

SECTION 3. This act shall take effect on becoming law, the public welfare requiring it, and shall apply to assessments made for tax year 2009 and thereafter.